

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:19-cv-00433-RJC  
(3:17-cr-00019-RJC-DCK-1)**

**TIMOTHY MONTAE HINES,** )  
 )  
 **Petitioner,** )  
 )  
 **vs.** )  
 )  
 **UNITED STATES OF AMERICA,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on periodic status review and Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. [Doc. 1].

Petitioner filed his Section 2255 Motion to Vacate on September 4, 2019. [Doc. 1]. On initial review under the Rules Governing § 2255 Proceedings, Rule 4(b) 28 U.S.C.A. foll. § 2255, the Court found that the motion appeared untimely and that it had not been signed under penalty of perjury. On September 6, 2019, the Court, therefore, granted Petitioner twenty (20) days in which to provide an explanation as to why his Section 2255 petition should not be dismissed as untimely, including any reasons why equitable tolling should apply. See Hill v. Braxton, 277 F.3d 701, 706 (4th Cir. 2002); United States v. Blackstock, 513 F.3d 128, 133 (4th Cir. 2008) (remanding to district court pursuant to Hill for determination of timeliness of § 2255 Motion). The Court also instructed the Petitioner that he must sign the petition under penalty of perjury and resubmit it in accordance with Rule 2(b)(5) of the Rules Governing § 2255 Proceedings. Finally, the Court advised Petitioner that his failure to return the Section 2255 form, signed under penalty of perjury and explaining why his petition should not be dismissed as untimely, within twenty days

of service of that Order, may result in dismissal of this action without prejudice. [Doc. 2].

Now being well past the 20-day deadline to refile his Section 2255 motion to vacate in accordance with the Court's Order and it appearing that Petitioner's motion is untimely in any event, the Court will dismiss Petitioner's motion without prejudice.

**IT IS, THEREFORE, ORDERED** that:

(1) Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence

[Doc. 1] is **DISMISSED** without prejudice.

(2) The Clerk is instructed to terminate this action.

Signed: November 14, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

